

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI**

In Re

CODY & MELISSA WELDON,

Debtor(s)

MISSOURI DEPARTMENT OF REVENUE,

Movant,

CODY & MELISSA WELDON,

Respondent(s)

) Case No. 16-43726-659-13

) Chapter 13

)

)

) **MOTION TO DISMISS**

)

) Response due: July 27, 2016

)

)

) Sheryl L. Moreau

) Missouri Department of Revenue

) 301 West High Street, Room 670

) Jefferson City, MO 65105

) Missouri Bar # 34690

) Federal District Bar #: Exempt

MOTION TO DISMISS FOR FAILURE TO FILE TAX RETURNS AND NOTICE

PLEASE TAKE NOTICE: ANY RESPONSIVE PLEADING IN OPPOSITION TO THIS MOTION MUST BE FILED IN WRITING NO LATER THAN TWENTY- ONE (21) DAYS FROM THE DATE OF SERVICE OF THIS MOTION AS SHOWN IN THE CERTIFICATE OF SERVICE. (See L.B.R. 9013-1 B., 9061-1 B.) THE RESPONSE MUST BE IMMEDIATELY SERVED UPON THE UNDERSIGNED AND UPON ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A. THE COURT MAY GRANT THE MOTION WITHOUT FURTHER NOTICE TO ANY PARTY UPON EXPIRATION OF THE RESPONSE PERIOD IF NO RESPONSE IS FILED.

IF A RESPONSE OR OBJECTION IS FILED, THE MOVANT SHALL SET THE MATTER FOR HEARING AND PROVIDE NOTICE THEREOF TO THE RESPONDENT AND ALL ENTITIES DESCRIBED IN L.B.R. 9013-1 A.

COMES NOW the Missouri Department of Revenue, a Creditor herein, and states to the Court as follows:

1. Debtors filed this bankruptcy proceeding on May 20, 2016.
2. Debtors failed or refused to file tax returns for the following years: 2013 (CODY only) and 2014 (BOTH). Any tax due for these periods are entitled to priority pursuant to 11 U.S.C. § 507(a)(8).
3. These tax returns will provide the Missouri Department of Revenue with information necessary for the completion and filing of claims in this bankruptcy proceeding.
4. Debtors' failure to file the aforementioned tax returns constitutes an unreasonable delay which is prejudicial to the Missouri Department of Revenue and is grounds for dismissal under

11 U.S.C. § 1307(c)(1). Further, the court pursuant to 11 U.S. C. § 105(a) is given power to issue any order necessary or appropriate to enforce or implement the provisions of Title 11 of the United States Code.

5. The continuation of the bankruptcy estate without the filing of the tax returns is not in the best interest of the creditors of this estate; is in violation of the laws of the State of Missouri; and would inequitably treat the State of Missouri by preventing it from receiving the payments to which it is entitled under the Bankruptcy Code.

6. Upon the filing of the above-mentioned tax returns or notarized affidavit stating sufficient cause for the non-filing of said returns, the Missouri Department of Revenue will withdraw this motion.

WHEREFORE, the Missouri Department of Revenue prays for an order dismissing Debtors' Chapter 13 proceeding, and for such other relief as the Court deems just and proper.

Chris Koster, Attorney General
State of Missouri

By: /s/ Sheryl L. Moreau
Sheryl L. Moreau, Mo. Bar # 34690
Federal District Bar #: Exempt
Special Assistant Attorney General
Missouri Department of Revenue
General Counsel's Office
301 W. High Street, Room 670
P.O. Box 475
Jefferson City, MO 65105-0475
(573) 751-5531 FAX (573) 751-7232
E-mail: edmoecf@dor.mo.gov
Attorney for Department of Revenue.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion to Dismiss was sent through the Court's ECF system or by ordinary mail, on July 6, 2016 to the following:

Sean C. Paul
8917 Gravois Rd., 2nd Fl
St. Louis, MO 63123

Cody & Melissa Weldon
111 Julie Lane
Saint Peters, MO 63376

/s/ Sheryl L. Moreau